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**UNITED STATES DISTRICT COURT**

**DISTRICT OF NEVADA**

CHINA ENERGY CORPORATION, a Nevada  
corporation,

Plaintiff,

vs.

ALAN T. HILL, ELENA SAMMONS,  
MICHAEL SAMMONS, THOMAS S.  
VREDEVOOGD, TRUSTEE OF THE  
KIMBERLY J. VREDEVOOGD TRUST UA  
1007/2008, JUN HE, and RANDY DOCK  
FLOYD,

Defendants.

CASE NO. 3:13-cv-00562-MMD-VPC

**PLAINTIFF CHINA ENERGY CORPORATION'S RESPONSE TO MOTION TO  
EXTEND THE DISCOVERY AND RELATED DEADLINES FOR THE THIRD PARTY  
CLAIMS**

PLAINTIFF CHINA ENERGY CORPORATION ("CEC"), by and through its attorneys  
at the law firms of GORDON SILVER and ULMER & BERNE LLP, hereby submits this

1 Response to Cor Clearing Inc.'s ("COR") Motion to Extend Discovery and Related Deadlines for  
2 the Third-Party Claims. This Response is supported by the following memorandum of points and  
3 authorities, all pleadings and papers on file herein, and any other materials this Court may  
4 choose to consider.

5 **MEMORANDUM OF POINTS & AUTHORITIES**

6 In its Motion, COR seeks a sixty (60) day extension of the cut-off date for third-party  
7 discovery and a corresponding extension of the deadlines for expert disclosures and dispositive  
8 motions. COR contends that it needs additional time to obtain discovery from Cede & Co. and  
9 the Depository Trust Company (collectively, "Cede") and to depose a former employee. COR  
10 contends that it could not have previously conducted such discovery because third-party  
11 discovery was stayed until September 15, 2014, when the District Court granted Cede's motion  
12 to dismiss.

13 Given that this case has already been pending more than a year, CEC is opposed to any  
14 further extensions of discovery in this case. All parties have had ample time to conduct fact  
15 discovery. Nevertheless, CEC recognizes that Cede may have opposed the discovery COR seeks  
16 based on the fact that third-party discovery related to Cede was arguably stayed until September  
17 15, 2014. *See* (April 24, 2014, Order (Dkt. No. 205); Sept. 15, 2014, Order (Dkt. No. 255, on file  
18 herein.)

19 To the extent that the Court grants COR's proposed extension in whole or in part, any  
20 extension granted with respect to discovery from any third party should be taken into account in  
21 setting the remaining dates in the rest of the case because the discovery COR seeks may be  
22 relevant to the issues raised in CEC's Complaint. To that end, any discovery extension should  
23 also affect the deadlines set forth in the most recent scheduling order and be consistent with the  
24 Court's prior rulings in this case. *See* (Aug. 7, 2014, Stipulated Discovery Plan and Scheduling  
25 Order (Dkt. No. 245), on file herein.) In addition, CEC submits that all parties should be  
26 permitted to conduct discovery from any third party during the extended discovery period.

27 Thus, to the extent the Court grants COR additional time to conduct the limited discovery  
28

1 identified in its Motion (Dkt. No. 264), CEC respectfully requests that the Court adopt the  
2 following deadlines, which shall be applicable to the entire case:

3 (a) **Discovery cut-off date:** The cut-off date for discovery from any third party will  
4 be November 19, 2014.

5 (b) **Expert Disclosures:** Initial expert disclosures related to the first claim for relief  
6 in the original Complaint and third-party initial expert disclosures will be November 3, 2014.  
7 Rebuttal expert disclosures are due December 3, 2014. Expert depositions must be completed  
8 within thirty days of the last expert disclosure.

9 Expert discovery related to CEC's second claim for relief will proceed as set forth in the  
10 Court's March 21, 2014, Minute Order (Dkt. No. 192).

11 (c) **Dispositive Motions:** Consistent with the August 7, 2014, Stipulated Discovery  
12 Plan and Scheduling Order (Dkt. No. 245), dispositive motions on the first claim for relief in the  
13 original Complaint must be filed either:

14 (1) within thirty (30) days after the discovery cut-off date unless any party discloses an  
15 expert witness on or before November 3, 2014. In the event any party discloses an expert  
16 witness, such dispositive motions shall be filed within thirty (30) days after the deadline to  
17 disclose rebuttal experts; or

18 (2) within thirty (30) days after the date the Court decides any of the pending motions for  
19 summary judgment concerning CEC's first claim for relief in the original Complaint, whichever  
20 date is later.

### 21 **CONCLUSION**

22 For the foregoing reasons, CEC respectfully requests that COR's Motion to Extend  
23 Discovery and Related Deadlines for the Third-Party Claims (Dkt. No. 264) be denied. In the  
24 alternative, CEC requests that the Court adopt the proposed schedule set forth in this Response.

25 ///

26 ///

27 ///

1 DATED this 2<sup>nd</sup> day of October, 2014.

2 **GORDON SILVER**

3 /s/ Justin J. Bustos

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17 *Attorneys for Plaintiff*

**CERTIFICATE OF SERVICE**

I certify that I am an employee of GORDON SILVER, and that on this date, pursuant to FRCP 5(b), hereby certifies that she served a copy of **PLAINTIFF CHINA ENERGY CORPORATION'S RESPONSE TO MOTION TO EXTEND THE DISCOVERY AND RELATED DEADLINES FOR THE THIRD PARTY CLAIMS** via CM/ECF to the following individuals:

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And by U.S. Mail, postage prepaid, to the following individuals:

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*Defendant in Proper Person*

Jun He  
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*Defendant in Proper Person*

DATED this 2<sup>nd</sup> day of October, 2014.

/s/ Stephanie J. Glantz  
An employee of GORDON SILVER